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March 31, 2003

Ms. Rebecca Kane  
Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
MC 2222A  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Submitted via E-mail at [echo@epa.gov](mailto:echo@epa.gov)

RE: Comments on Enforcement and Compliance History Online Website  
67 FR 70079, November 20, 2002

Dear Ms. Kane:

The Marathon Oil Company (Marathon) submits these comments in response to the Environmental Protection Agency's (EPA's) notice of information availability and request for comments on the Enforcement and Compliance History Online Website ("ECHO"), which was published in the Federal Register on November 20, 2002. Marathon is a fully integrated oil company that conducts exploration and production of crude oil and natural gas worldwide. It is also a 62% owner of the Marathon Ashland Petroleum LLC (MAP), a domestic refining, marketing, and transportation oil and gas company. Marathon owns and operates many facilities across the U.S. whose compliance data have been posted on the pilot ECHO website, and thus is significantly impacted by EPA's ECHO project. Additionally, as a member of the American Petroleum Institute (API) and the National Association of Manufacturers (NAM), Marathon agrees with the comments submitted by API and NAM, and would encourage EPA to consider and adopt the recommendations contained in those comments as well.

**I. EPA must correct the severe problem in the inaccurate and incomplete ECHO database.**

Based on our review of the ECHO database pertaining to Marathon facilities, it appears that the database has a severe problem of being incomplete and inaccurate. Many pieces of information regarding our monitoring and testing data, which have been submitted to EPA and state agencies previously, are hideously missing on the ECHO website. Of the

data that is posted on the ECHO website, it contains numerous errors, ranging from incorrect facility identification or location information to erroneous postings of

noncompliance. The following are only examples of inaccuracy and incompleteness problems found in the ECHO database on Marathon facilities:

- Incorrect addresses.
- Incorrect facility status: A minor source air permit is being listed as major, and a permanently closed facility listed as temporarily closed.
- Incorrect latitudes and longitudes. Cannot be corrected online.
- Permits on Indian lands do not show as permitted for Indian lands. Cannot be corrected online.
- A facility operated by another company is erroneously listed as a Marathon facility.
- A permit listed was an old construction permit, which has been replaced by a new operating permit.
- No indication of permits being administratively extended, leading ECHO users to believe facilities are being operated without permits. Cannot be corrected online.
- Incorrect inspection lead agency: Inspections performed by EPA and Indian tribal authorities are erroneously listed as being inspected by the State, who does not have the jurisdiction.
- Frequent incorrect indications of nonreceipt of discharge monitoring reports (DMRs), resulting in reportable noncompliance status.
- Only partial inclusion of DMR data: ECHO lists some data from a DMR for certain parameters, while data submitted on the same DMR for different parameters are absent and shown as a reportable noncompliance due to nonreceipt of DMR. This occurs virtually to all the NPDES permits in one business unit.
- Concentration maximum data from DMRs shown without minimums and averages.
- Monitoring section showing analysis not conducted when it was conducted and reported on the DMR.
- Monitoring periods completely missing from the Measurement and Violations section. The missing monitoring periods vary from parameter to parameter, from permit to permit.
- Incorrect parameter code: Description of a code is “flow in conduit or through treatment plant” while the data shown is for acrylamide monomer.

As the list above illustrates, the ECHO database contains significantly inaccurate and incomplete data. Marathon is very concerned that there are so many instances in which ECHO incorrectly portrays a Marathon facility as not in compliance simply based on inaccurate and incomplete data. It is unacceptable for EPA to disseminate information that mischaracterizes Marathon as a violator of environmental laws, particularly in such a high-profile, easily accessible format. Unexpected and unnecessary consequences could potentially result from the compliance data with such poor quality but high accessibility.

In discussing this matter with other members of API and NAM, it is revealed that Marathon's experience is consistent with that of our peers in the industry. The prevalence of the problem with inaccurate and incomplete data is further confirmed by the many reports of errors that have already appeared in EPA's online "digest" of comments from ECHO users.

It is crucial that the compliance data posted on ECHO website is both accurate and complete. EPA must correct the problem with the database in its current form before the "pilot" designation on the ECHO website is removed. Many of the errors found in the database for Marathon's and our peers' facilities have not been, and in some cases, cannot be, corrected at this time. Given the potential adverse effect of such misleading information, EPA should extend the "pilot" designation. Meanwhile, EPA should flag or highlight the data that have been in question, correct errors in a timely manner, find and fix the system flaws that caused the errors in the first place, and improve the error correction procedures.

## **II. EPA must develop a system to ensure data quality of the ECHO program.**

EPA envisions that ECHO program will result in several benefits for the public, industry, and government entities. For example, EPA anticipates that companies will use ECHO as a tool to monitor their own compliance status under federal environmental laws. EPA hopes that citizens will use the ECHO data and make better and more informed decisions regarding environmental issues impacting their communities. Meanwhile, ECHO may provide federal, state, tribal and local governments an important tool to evaluate environmental compliance problems and determine program priorities.

With its current status of data quality, the ECHO program not only fails to deliver the benefits that EPA has envisioned, but also may cause some unexpected and unnecessary harm. Inaccurate and misleading information imposes an unfair and gratuitous burden of proof on companies whenever an interested party acts on perceived poor environmental performance and compliance. It is vitally important that EPA develop a workable system that will: a) minimize the number of errors in database before the information is posted on the website; b) allow timely and easy correction once an error is found on ECHO website. In addition, there are some other features that can be added to ECHO to improve, enhance and ensure the quality of the data. Recommendations in these areas are discussed in detail below.

### **A. Minimize the number of errors in database before posted on website.**

- 1. Pre-dissemination review --** The Data Quality Act of 2000 requires agencies to develop a process for reviewing and assuring the quality (including the

objectivity, utility, and integrity) of information before it is disseminated. It is unclear what pre-dissemination review EPA has conducted on the data disseminated on ECHO website. Given ECHO's high profile format and its potential for adverse effect, it is important that EPA institute a vigorous and transparent pre-dissemination review process for ECHO data.

2. **Coordination with States** – In our effort to correct errors in Marathon's NPDES data which are too numerous to report one-by-one using ECHO's online correction mechanism, we found, in talking to both EPA and the State, that the State compliance database was somehow not compatible with ECHO software. The State had correctly entered monitoring data from Marathon's DMRs. It was the incompatibility between the State and EPA systems that caused the numerous errors in ECHO database. EPA must take primary responsibility to coordinate more closely with states in data collection to resolve any discrepancies between the states and ECHO data.
3. **Pre-view by companies** – One other potential mechanism to ensure data quality is to provide companies the opportunity to review and, as necessary, correct information about their facilities before the information is disseminated on ECHO.

**B. Allow timely and easy correction once an error is found on website.**

1. **Error correction procedures** – Marathon finds the online correction process that is currently in place very user unfriendly and difficult to use. One example is repeated receipt of error messages such as "(t)he error submission form does not automatically identify the web page you had a problem on. In order to properly identify the error, please tell us the name, address, program system and program system ID number for the facility." One other example is that, when multiple corrections are necessary, the system returns the user to the beginning of the process after every correction entry. The user then has to re-enter log in and identification information, and then return to the document to make the next correction. EPA must revise the software to allow multiple correction on a single facility report. This is particularly important for correcting NPDES data which is often plagued with numerous errors for single facilities.
2. **Timeframes for correcting errors** -- The EPA's data correction process should include specific timeframes for correcting errors. The database currently contains inaccurate and misleading data about facilities and no timeframe is in place to address these problems. The burden is placed upon the companies to find errors, report them to EPA, and to continually check the ECHO website to find out when the errors are corrected. EPA should commit to a timeframe in which companies can expect the errors are corrected timely.

**C. Additional recommendations for improving and enhancing ECHO**

1. **Flagging pending information** -- Given the time it takes EPA and the states to respond to data correction requests, ECHO should flag the data for which

correction requests are pending to avoid the potential unfair consequences of misleading and inaccurate data.

2. **Notification** -- The current system places a significant burden on companies to conduct periodic review and quality control of data over which the companies have little or no control. To ease the burden on companies, the ECHO program should include a notification mechanism which would automatically notify the company when new or corrected data on any of that company's facilities are posted on ECHO website.
3. **More refined data on purported violations** – In ECHO database, EPA should distinguish between alleged and actual violations, between single, isolated violations and broader violations, and between corrected situations and on-going noncompliance. EPA also should provide more meaningful context by supplying estimated number of compliance obligations that a facility may face. Without these distinctions and context, ECHO would provide a misleading portrayal of a regulated facility's environmental performance and compliance.
4. **Authentication mechanism** – The ECHO which currently provides unrestricted access to data correction avenue appears to be vulnerable to misuse because third parties have the ability to report an error. Third parties can represent themselves as employees, company contractors, or government representatives and provide erroneous data through data correction mechanism. ECHO must be able to authenticate the role and authority of the individual reporting the error.

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### **Conclusions**

EPA has envisioned ECHO to be a useful tool to the industry, general public and government entities. However, Marathon is highly concerned with the accuracy, completeness and usefulness of the data currently presented on ECHO. There are many undesirable consequences of posting inaccurate, incomplete and misleading data on such a highly accessible website. EPA has a real opportunity to advance a strong commitment to data quality through its ECHO program while protecting the interests of those it wishes to serve. Marathon strongly urges EPA to consider and adopt the recommendations presented in this set of comments, as well those submitted by API and NAM. Marathon stands ready to work with EPA to improve the ECHO project such that it becomes the useful tool that EPA has envisioned.

We appreciate the opportunity to submit these comments. If you have any questions, please feel free to contact Dr. Jenny Yang of my staff at 713.296.3415.

Sincerely,

April 7, 2003

A handwritten signature in black ink, reading "Daniel J. Sullenbarger". The signature is written in a cursive style with a large, stylized 'D' and 'S'.

Daniel J. Sullenbarger  
Vice President  
Health, Environment & Safety